

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

GILDA GOLDWATER,

Plaintiff,

v.

Case No: 8:20-cv-3086-KKM-JSS

ATLAS VAN LINES, INC.,

Defendant.

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**ORDER**

Before the Court is Plaintiff's Response to Defendant's Motion to Dismiss Plaintiff's Complaint and Plaintiff's Motion to Remand Case to State Court (Doc. 7). In the response, Plaintiff asks this Court to remand the action to state court because this Court lacks jurisdiction over the matter. A request for affirmative relief, such as a remand to state court, is not properly raised when included in an opposition to another motion. *See* Fed. R. Civ. P. 7(b); *Prime v. Healthcare Servs—Leigh Acres, LLC v. Blue Cross Blue Shield of Fla., Inc.*, No. 3:20-cv-988-J-34JBT, 2020 WL 6273744, at \*1 (M.D. Fla. Oct. 26, 2020); *cf. Rosenberg v. Gould*, 554 F.3d 962, 965 (11th Cir. 2009) ("Where a request for leave to file an amended complaint simply is imbedded within an opposition memorandum, the issue has not been raised properly." (quoting *Posner v. Essex Ins. Co.*, 178 F.3d 1209, 1222 (11th Cir. 1999))). Accordingly, the Court will strike the Response

and direct Plaintiff to file a proper response to Defendant's motion and, if Plaintiff continues to seek remand, a separate motion for remand.

Second, even if this issue were properly raised, Plaintiff has failed to comply with Local Rule 3.01(g), which requires certification that the moving party has conferred with opposing counsel in a good faith effort to resolve the issue raised by the motion and advises the Court as to whether the requested relief is opposed. If plaintiff wishes to seek relief from the Court, she must file an appropriate motion in accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court.

Therefore, it is **ORDERED**:

(1) Plaintiff's Response to Defendant's Motion to Dismiss Plaintiff's Complaint and Plaintiff's Motion to Remand Case to State Court (Doc. 7) is **STRICKEN**.

(2) Plaintiff shall have up to and including **March 26, 2021**, to file a proper response to the Motion.

(3) To the extent Plaintiff seeks affirmative relief from the Court, she must file an appropriate motion or motions requesting such relief.

**ORDERED** in Tampa, Florida, on March 17, 2021.



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Kathryn Kimball Mizelle  
United States District Judge